

150 FERC ¶ 61,029
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

ISO New England Inc.
New England Power Pool Participants Committee

Docket No. ER14-2407-003

ORDER ON CLARIFICATION

(Issued January 20, 2015)

1. By order issued September 9, 2014,¹ the Commission accepted ISO New England Inc.'s (ISO-NE)² proposed revisions to Market Rule 1 of its Transmission, Markets and Services Tariff (Tariff), intended to aid ISO-NE in maintaining reliability during winter 2014-2015 (2014-2015 Winter Reliability Program, or Program). The Commission also required ISO-NE to initiate a stakeholder process to develop a proposal to address reliability concerns for the 2015-2016 winter and future winters, as necessary, and submit informational progress reports. On October 9, 2014, the New England Power Generators Association, Inc. (NEPGA) filed a motion for clarification of the September 9, 2014 Order. We grant NEPGA's requested clarification to the extent discussed below.

I. Background

2. On July 11, 2014, as amended on July 14, 2014, ISO-NE submitted the 2014-2015 Winter Reliability Program for filing as a temporary, out-of-market solution to ensure adequate fuel supplies by creating incentives for dual-fuel resource capability and

¹ *ISO New England Inc. and New England Power Pool Participants Committee*, 148 FERC ¶ 61,179 (2014) (September 9, 2014 Order).

² This order refers to ISO-NE as the filing party; however, as detailed in the September 9, 2014 Order, the New England Power Pool Participants Committee (NEPOOL) also sponsored the original filing.

participation, offsetting the carrying costs of unused firm fuel purchased by generators, and providing compensation for demand response services. ISO-NE stated that the Program is modeled on last year's winter reliability program (sometimes referred to as 2013-2014 Winter Reliability Program),³ which bridged the reliability gap created by the colder than average winter weather.

3. ISO-NE explained that, leading up to the 2014-2015 winter, ISO-NE was hopeful that market improvements such as offer flexibility changes⁴ and the Commission's clarification of generator obligations⁵ would sufficiently address the region's dependence on natural gas for the 2014-2015 winter. However, ISO-NE stated that three factors caused it to conclude that a program for the 2014-2015 winter was necessary: (1) the retirements of non-natural gas generation capable of producing a significant amount of energy during the winter period, (2) the fact that natural gas pipeline constraints during the 2013-2014 winter were worse than expected, and (3) resources had difficulty replenishing oil inventories mid-season during the 2013-2014 winter.

4. ISO-NE stated that it anticipates the need for some form of a winter reliability program for each winter prior to implementation of the two-settlement capacity market design⁶ scheduled to take effect in June 2018. However, ISO-NE stated that it will

³ See *ISO New England Inc.*, 144 FERC ¶ 61,204 (2013), *reh'g denied*, *ISO New England Inc.*, 147 FERC ¶ 61,026 (2014) (accepting subject to condition 2013-2014 Winter Reliability Program); see also *ISO New England Inc.*, 145 FERC ¶ 61,023 (2013), *reh'g denied*, *ISO New England Inc.*, 147 FERC ¶ 61,027 (2014) (accepting, subject to condition, 2013-2014 Winter Reliability Program bid results).

⁴ See *ISO New England Inc. & New England Power Pool*, 145 FERC ¶ 61,014 (2013), *order on compliance*, 147 FERC ¶ 61,073 (2014). The offer flexibility changes refer to a set of market rule changes that will allow market participants to, among other things, submit hourly reoffers in the real-time market and submit offers that vary by hour.

⁵ See *New England Power Generators Ass'n, Inc. v. ISO New England Inc.*, 144 FERC ¶ 61,157 (2013) (absent demonstrated inability to obtain natural gas or transportation, ISO-NE's Tariff imposes a strict performance obligation on capacity resources).

⁶ See *ISO New England Inc.*, 147 FERC ¶ 61,172 (2014), *order on compliance*, *ISO New England Inc.*, 149 FERC ¶ 61,009 (2014). The two-settlement capacity market design, sometimes called Pay-for-Performance, refers to the impending market design under which a resource that produces energy or provides reserves during Capacity Scarcity Conditions in excess of a *pro rata* share of its capacity supply obligation would

(continued ...)

evaluate whether it is feasible to design and implement a market-based solution for the remaining winters before the two-settlement capacity market design is effective.⁷

5. In the September 9, 2014 Order, the Commission accepted the proposed Tariff revisions regarding dual-fuel capability, unused fuel inventory, market monitoring, and demand response effective September 9, 2014, as requested, and the Tariff revisions regarding market monitoring effective December 3, 2014, as requested. Noting that it still prefers a long-term, market-based solution, the Commission recognized the particular challenges to reliability for the coming winter and the temporary nature of the proposed Tariff provisions in making its determination.⁸ The Commission stated that it expects ISO-NE to abide by its commitment to develop a long-term, market-based solution to address winter reliability issues. The Commission directed ISO-NE to initiate a stakeholder process by January 1, 2015 to develop a proposal to address reliability concerns for the 2015-2016 winter and future winters, as necessary, and required ISO-NE to submit a stakeholder meeting schedule within 30 days and progress reports every 60 days thereafter for the next 12 months.⁹

6. The Commission rejected commenters' requests for the Commission to initiate a section 206 proceeding and order ISO-NE to file a market-based winter program.¹⁰ The Commission noted that ISO-NE has made efforts to address the region's dependence on natural gas by initiating market improvements through the stakeholder process such as

receive additional revenue, while a resource that produces less than its *pro rata* share would face a reduction in its net capacity revenue. According to ISO-NE, the two-settlement capacity market design will create strong financial incentives for resources to perform during scarcity conditions, when energy and reserves are most needed, and remedy the problem that many New England resources currently fail to perform during scarcity conditions.

⁷ ISO-NE July 11, 2014 Transmittal at 9.

⁸ September 9, 2014 Order, 148 FERC ¶ 61,179 at PP 39-41.

⁹ *Id.* P 41.

¹⁰ *Id.*

offer flexibility changes in the energy market, as well as reserve market improvements including changes to the failure-to-reserve penalty, the failure-to-activate penalty,¹¹ and introducing a reserve constraint penalty factor for replacement reserves.¹²

7. On October 8, 2014, ISO-NE submitted an informational filing containing its proposed stakeholder meeting schedule. On December 8, 2014, ISO-NE submitted an informational filing containing a progress report on the stakeholder process.

II. Motion for Clarification

8. In its motion for clarification, NEPGA asks the Commission to clarify that the September 9, 2014 Order required ISO-NE to develop and implement a market-based solution to address winter reliability issues in time for the 2015-2016 winter.¹³ NEPGA asserts that ISO-NE is interpreting the order to allow ISO-NE to continue proposing out-of-market fixes for the three consecutive winters after the 2014-2015 winter and that ISO-NE has explained that the impending two-settlement capacity market design may be the long term, market-based solution for winter reliability needs that ISO-NE has committed to put into place.¹⁴ NEPGA argues that ISO-NE's interpretation is unreasonable because it contradicts the urgency with which the Commission ordered ISO-NE to develop a proposal and commence a stakeholder process and ignores the plain meaning of the Commission's stated expectation that ISO-NE "abide by its commitment to develop a long-term, market-based solution to address winter reliability issues."¹⁵

9. On October 24, 2014, ISO-NE filed an answer to NEPGA's motion for clarification. ISO-NE states that the Commission directed ISO-NE to develop a proposal to address reliability concerns in future winters but did not impose a requirement that the proposal be market-based. ISO-NE states that the impending two-settlement capacity market design will provide a market-based solution but that, in the interim, it is appropriate to give the region flexibility in evaluating and reaching consensus on the

¹¹ *ISO New England, Inc.*, Docket No. ER13-1733-000 (August 15, 2013) (delegated letter order).

¹² *ISO New England, Inc.*, Docket No. ER13-1736-000 (August 15, 2013) (delegated letter order).

¹³ Rehearing Request at 1.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3.

objective the region is seeking to achieve through a winter program. ISO-NE states that the outcome could be a market-based solution, an extension of the current winter program, or another alternative yet to be defined.

III. Discussion

10. We grant NEPGA's requested clarification to the extent discussed below. In the September 9, 2014 Order, the Commission directed ISO-NE to initiate a stakeholder process by January 1, 2015 in order to develop a proposal to address reliability concerns for the 2015-2016 winter and future winters, as necessary.¹⁶ In directing the stakeholder proceeding, the Commission explained that it "expect[s] ISO-NE to abide by its commitment to develop a long-term, market-based solution to address winter reliability issues."¹⁷ Through this directive, the Commission intended that ISO-NE would determine whether a winter reliability solution is necessary for the 2015-2016 winter and future winters, and, if so, develop an appropriate market-based solution through the stakeholder process that can be implemented beginning with the 2015-2016 winter. While the two-settlement capacity market design could help address winter reliability concerns in the future, that design will not be fully implemented until the 2018-2019 Capacity Commitment Period.

The Commission orders:

The motion for clarification is hereby granted, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ *Id.* PP 1, 41, ordering para. (B).

¹⁷ September 9, 2014 Order, 148 FERC ¶ 61,179 at P 41.